



Summarizing again, Applicants' representative, Anthony J. Castorina, of 2001 Jefferson Davis Highway, Suite 207, Arlington, Virginia who received all the mail

addressed to the undersigned from the U.S. Patent and Trademark Office, declared that as the sole occupant of the above address, he personally opened all the mail received at the above address that is addressed to the attorney of record, Mark Friedman. Mr. Castorina declared that he routinely records all items that require action or responses of Mr. Friedman in a mail log. Mr. Castorina further declared that he then personally packages all the mail directed to Mr. Friedman and forwards in a Federal Express package to Mr. Friedman at his Tel Aviv address. Mr. Castorina declared that he has reviewed all of his entries from February 23, 1999 through April 23, 1999, and has included true copies thereof and has no Notice of Missing Requirements or any other action recorded therein for the above identified patent application. Mr. Castorina declared that as a result, no such Notice of Missing Requirements or any other action was received by him with respect to this application.

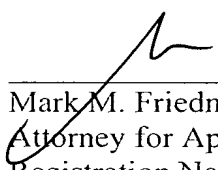
Also attached is the amended declaration from Mr. Friedman, the attorney of record, in which he declares that he personally opens all the Federal Express packages received from Mr. Castorina and immediately records on his database all actions received from the U.S. Patent Office. He declares that based on the database records of his, no such Notice of Missing Requirements or any other action is recorded on the above identified application. Mr. Friedman further declares that he has reviewed the file jacket of the above identified application and it does not contain the Notice of Missing Requirements allegedly mailed by the U.S. Patent Office on February 23, 1999. Mr. Friedman declares that other than the database entries for individual applications, he does not keep a mail log for received mail from any associates. Mr. Friedman declares that as a result, no such Notice of Missing Requirements or any other action was received by him with respect to this application.

Accordingly, pursuant to the holding of *Delgar, Inc. v. Schuyler*, 172 USPQ

513, Applicants have submitted sufficient facts to support the contention that the Notice of Missing Requirements was never received by Applicants representatives.

In view of the above, the Notice of Abandonment should be withdrawn and a New Notice of Missing Requirements be mailed on the subject patent application. It is believed that this Petition does not require a fee, but if one is required, authorization to charge Deposit Account 06-2140 is hereby granted.

Respectfully submitted,



Mark M. Friedman
Attorney for Applicant
Registration No. 33,883
Date: January 22, 2001

2. As part of his duties and responsibilities as my correspondent address, I instructed Mr. Castorina to receive, open, docket and forward all mail addressed to me at his address above. I have instructed him to personally open all the mail addressed to me and routinely docket in a log all U.S. Patent & Trademark Office actions requiring further action on my part. I also asked him to ship me all the mail addressed to me received by him by Federal Express and notify me by telefax of the Federal Express Waybill number.

3. Based on receipt of all Federal Express Waybills I was advised of, all Federal Express shipments that Mr. Castorina has shipped to me have been received by me. None has ever not been delivered.

4. I personally open the shipments received from Mr. Castorina and record the actions received in my database. Attached herewith is a true copy of all the entries on my computer database made on Serial No. 09/202,617, identified by my Docket 26/259. No entry of docketing a Notice of Missing Requirements or any other action on or about February 23, 1999 appears thereon.

5. I do not keep, nor have a mail log, of all received items. Rather, I personally record all entries into my computer database for each individual application immediately upon receiving the shipments from Mr. Castorina and other associates. The database generates responses on actions due based on individual data entries for each application. I do not print out these response records and my database does not save these records after the due date has lapsed.

6. I personally reviewed the contents of the file jacket of Docket 26/259 in my office after receiving the Notice of Abandonment to determine whether I deposited the Notice of Missing Requirements in the file jacket of file 26/259. I did not find such Notice of Missing Requirements in the file jacket.

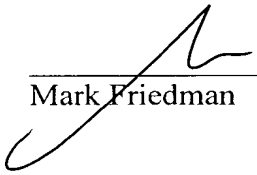
7. This indicates that I never received a Notice of Missing Requirements on the above identified application.

8. After having received the Notice of Abandonment dated December 9, 1999 on the subject patent application, for failure to respond to the Notification of Missing Requirements, I asked Mr. Castorina to review his records from February 23, 1999, the date of the alleged mailing of the Missing Requirements, through March 31, 1999, a reasonable period after the date of the Office Action, to determine whether he

had recorded receipt of such Notice of Missing Requirements or any other action on the above identified application. After reviewing his records, Mr. Castorina advised me that he had not recorded receipt of any action on this application, indicating that he had never received such Notice of Missing Requirements.

I hereby further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application of any patent issuing thereon.

Signed this 22 date of January, 2001



Mark Friedman